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OFFICE OF PETITIONS

In re Application of
Noriaki Hashimoto et al.
Application No. 09/690,818
Filed: October 18, 2000
Attorney Docket No: 2910-101

ON PETITION

This is a decision on the request, filed October 24, 2005, to accept an extension of time to file the appeal brief or in the alternative, to revive the above identified application under 37 CFR 1.137(b).¹

The request for an extension of time is noted.

The petition to revive under 37 CFR 1.137(b) is **DISMISSED** as involving moot issues.

A Notice of Appeal was filed June 22, 2005 with an amendment and a two month extension of time, in response to the Final Office mailed January 27, 2005. In an advisory action mailed July 29, 2005, the Examiner advised that the amendment did not place the application in condition for allowance and therein, the Notice of Appeal was entered.

An appeal brief was due within two months of the filing of the Notice of Appeal or by August 22, 2005. Requests for Extensions of time are permitted pursuant to 37 CFR 1.136(a) and 37 CFR 41.37. As such, this application is not abandoned.

¹Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

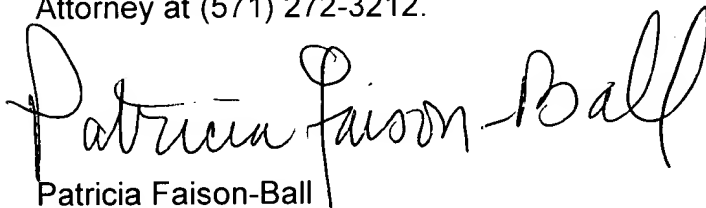
(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).

In view thereof, there is no need to treat the petition under 37 CFR 1.137(b). However, the extension of time needed to prevent the application from becoming abandoned would be two months instead of one month. Therefore, petitioner's deposit account no. 14-1437 has been charged in the amount of \$225.00.

This matter is being referred to Technology Center 2136 for review of the appeal brief filed October 24, 2005.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

A handwritten signature in black ink that reads "Patricia Faison-Ball". The signature is written in a cursive, flowing style with a large initial "P".

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions